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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,098	01/18/2002	Yuko Tsusaka	2002_0045A	6545
53349 7590 02/03/2009 WENDEROTH, LIND & PONACK L.L.P. 2033 K. STREET, NW SUITE 800 WASHINGTON, DC 20006				
EXAMINER				
SHANG, ANNAN Q				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/050,098

Applicant(s)

TSUSAKA ET AL.

Examiner

ANNAN Q. SHANG

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 22-26 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-21, rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Christopoulos et al (2001/0047517)**, applicant amends claims (new claims) and argues that the prior art of records do not teach the amended claim limitations (see page 6+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Russo teaches all the claim limitations as discussed with respect to the rejection below including charging fees based a user input preferences as to quality of reproduction or specific preference (col.6, line 63-col.7, line 23), but silent as to a flag and where the client terminal has a low or high processing ability and controlling a flag to process the special effects data accordingly based on processing ability of the client terminal as claimed or recited in the claim limitations and reproduction content reproduction confirmation section, which reproduce for confirmation, the content with or without the predetermined special effect to the portion of the content in accordance with the flag. However, note the **Christopoulos** reference figures 1-5, discloses method and apparatus for intelligent transcoding of multimedia data and further teaches storing contents and hints or special effect data and transmitting to a client device, where the client device, stores the content and hints for reproduction in accordance with the processing ability (low or high) of the client terminal, restricting a produced substance of

the content and applying the transcoding hints in real time during reproduction (page 2, [0035-0036], [0039-0040], [0046] and [0048]), note that the gateway or transcoder can reside in the server or the client (where the content and special effect are received) and the special effects are applied to the terminal based on the capabilities of the terminal. Hence the amended claims do not overcome the prior arts of record. The amendment to the claims necessitated the new ground(s) of rejection discussed below in the office action. **This office action is made final.**

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Christopoulos et al (2001/0047517)**.

As to claims 22-23, note the **Russo** reference figures 1-5, discloses stored program pay-per-play and further discloses contents distribution apparatus (figs.1 and 2) for distributing a content to a terminal device (Cable Box "CB" 4/Controller 10), the contents distribution apparatus comprising:

A storage section (inherent to Cable Provider "CP") operable to store the content, a plurality of pieces of special effect data to be applied to the content, and a flag indicating whether or not to apply, to the content, a special effect represented by

the plurality of pieces of special effect data (figs.1, 2, col.1, lines 12-42, col.3, line 40-col.4, line 27 and line 45-col.5, line 10);

A reception section (inherent to CP) operable to receive processing ability information, as information regarding a processing ability of the terminal device, from the terminal device (col.6, lines 9-14 and line 63-col.7, line 23); and

A transmission section operable to transmit the content, one of the plurality of pieces of special effect data and the flag to the terminal device when the processing ability of the terminal device is low, and operable to transmit the content, at least first special effect data and second special effect data included in the plurality of pieces of special effect data and the flag when the processing ability of the terminal device is high (col.1, lines 12-42, col.3, line 40-col.4, line 27, line 45-col.5, line 10, col.6, line 33-col.7, line 23 and col.10, lines 10-21), where the flag indicates that

(i) when the flag is ON and the processing ability of the terminal device is low, the contents distribution apparatus causes the terminal device to reproduce the content to which the special effect represented by the one of the plurality of pieces of special effect data is applied, (ii) when the flag is ON and the processing ability of the terminal device is high, the contents distribution apparatus causes the terminal device to reproduce the content to which the special effect represented by the first special effect data is applied in a predetermined reproduction portion of the content and to reproduce the content to which a special effect represented by the second special effect data is applied in reproduction portions other than the predetermined reproduction portion, and (iii) when the flag is OFF, the contents distribution apparatus causes the terminal device

not to reproduce the content to which any special effect is applied (col.1, lines 12-42, col.3, line 40-col.4, line 27, line 45-col.5, line 10, col.6, line 33-col.7, line 23 and col.10, lines 10-21); the terminal device comprises: a terminal-side transmission section operable to transmit the processing ability information to the contents distribution apparatus; a terminal-side reception section operable to receive the content, at least one of the plurality of pieces of special effect data and the flag; and a reproduction control section operable to reproduce the content to which the special effect represented by the at least one of the plurality of pieces of special effect data is applied in accordance with the flag (figs.1 and 2); note that the subscriber communicates terminal information (Satellite, cable box, etc.) to the provider and the provider transmits a code to enable the user terminal to retrieve the stored content and the special effect data "...audio information only, applied simply as high quality sound, including stereo sound, whether in analog or digital form...line 102 may in one...cable television input or feed from a satellite receiver..."

Russo teaches storing different quality based upon input criteria and charges fee based upon the input preferences, but silent as to a flag and where the client terminal has a low or high processing ability and controlling a flag to process the special effects data accordingly based on processing ability of the client terminal as claimed or recited in the claim limitations and reproduction content reproduction confirmation section, which reproduce for confirmation, the content with or without the predetermined special effect to the portion of the content in accordance with the flag

However, note the **Christopoulos** reference figures 1-5, discloses method and apparatus for intelligent transcoding of multimedia data and further teaches storing contents and hints or special effect data and transmitting to a client device, where the client device, stores the content and hints for reproduction in accordance with the processing ability (low or high) of the client terminal, restricting a produced substance of the content and applying the transcoding hints in real time during reproduction (page 2, [0035-0036], [0039-0040], [0046] and [0048]), note that the gateway or transcoder can reside in the server or the client (where the content and special effect are received) and the special effects are applied to the terminal based on the capabilities of the terminal.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Christopoulos into the system of Russo in order to allow the client device to store the content and hints and dynamically modify the content with the hints data in real time in accordance with the client terminal capabilities (low or high), without having to communicate upgrade features back to the server.

As to claim 24 and 25, the claimed "A content distribution system..." is composed of the same structural elements that were discussed with respect to the rejection of claims 22 and 23.

As to claim 26, the claimed "A content distribution system for distribution a content..." is composed of the same structural elements that were discussed with respect to the rejection of claims 22 and 23.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/

Primary Examiner, Art Unit 2623

Annan Q. Shang